S.B. Criminal Leave to Appeal No.322/2006

Date of Order : 30.11.2006.

HON'BLE MR. JUSTICE SATYA PRAKASH PATHAK

Mr. V.R. Mehta, Public Prosecutor.

This criminal leave to appeal under Section 378(iii) & (i) Cr.P.C. has been filed by the State against the judgment and order of acquittal dated 28.07.2006 passed by the learned Special Judge SC/ST (Prevention of Atrocities Cases) Bikaner in Sessions Case No.11/06, whereby the accused respondent has been acquitted of the charge under Sections 344, 366 & 376 IPC read with Section 3(2)(v) SC/ST (Prevention of Atrocities) Act, 1989.

Heard learned Public Prosecutor and carefully gone through the material available on record.

The contention of learned Public Prosecutor is that in the instant case learned trial court has misread the evidence completely and on the basis of conjecture and

surmises by misinterpreting the version of the prosecution has acquitted the accused respondent for the offences under Sections 344, 366, 376 IPC read with with Section 3(2)(v) SC/ST (Prevention of Atrocities) Act, 1989.

Taking into consideration all the facts and circumstances of the case and on the perusal of the impugned judgment of the acquittal passed by the learned trial court, I find it to be a fit case to grant leave to appeal.

Accordingly, the leave to appeal is granted. The memo of leave to appeal be treated as memo of appeal. Bailable warrant in the sum of Rs.5,000/- be issued against accused-respondent Akhtar Alia alias Kalu s/o Sardar Ali for his appearance before this court on 8th January, 2007 and as & when called upon to do so.

Call for the record.

(SATYA PRAKASH PATHAK), J.

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